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Attorney for Defendant  
JAVIER RUIZ, Jr.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) No. Cr. F 02-5094 LJO  
Plaintiff, )  
v. ) **STIPULATED MOTION AND ORDER TO**  
JAVIER RUIZ, Jr., ) **REDUCE SENTENCE PURSUANT TO 18**  
Defendant. ) **U.S.C. § 3582(c) (2)**  
 )  
 ) **RETROACTIVE CRACK COCAINE**  
 ) **REDUCTION CASE**  
 )  
 )

Defendant, JAVIER RUIZ, Jr., by and through his attorney,  
Assistant Federal Defender David M. Porter, and plaintiff, UNITED  
STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney  
Kathleen A. Servatius, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this court may reduce the term of imprisonment in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o);

2. The sentencing range applicable to Mr. Ruiz was subsequently lowered by the United States Sentencing Commission in Amendment 706 by

two levels;

3. Mr. Ruiz's offense has been reduced from 31 to 29, and a sentence at the low end of the new guideline range would be 87 months;

4. Mr. Ruiz merits a reduction in his sentence based on the factors listed in 18 U.S.C. § 3553(a), as well as considerations of public safety and Mr. Ruiz's positive post-sentencing conduct;

5. Accordingly, the parties request the court to enter the order lodged herewith reducing Mr. Ruiz's term of imprisonment to 87 months.

Dated: May 16, 2008

Respectfully submitted,

DANIEL J. BRODERICK  
Federal Defender

McGREGOR SCOTT  
United States Attorney

/s/ Kathleen A. Servatius

KATHLEEN A. SERVATIUS  
Assistant U.S. Attorney

Attorney for Plaintiff  
UNITED STATES OF AMERICA

/s/ David M. Porter

DAVID M. PORTER  
Assistant Federal Defender

Attorney for Movant  
JAVIER RUIZ, Jr.

## ORDER

This matter came before the Court on the stipulated motion of the defendant for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree, and the Court finds, that Mr. Ruiz is entitled to the benefit of the retroactive amendment reducing crack cocaine penalties, which reduces the applicable offense level from 31 to 29.

IT IS HEREBY ORDERED that the term of imprisonment originally imposed is reduced to 87 months.

IT IS FURTHER ORDERED that all other terms and provisions of the original judgment remain in effect.

Unless otherwise ordered, Mr. Ruiz shall report to the United States Probation office closest to the release destination within seventy-two hours after his release.

IT IS SO ORDERED.

Dated: May 19, 2008

**/s/ Lawrence J. O'Neill**

## UNITED STATES DISTRICT JUDGE